

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

RONALD WADE-BEY,
a/k/a Ronald Irvin,

Plaintiff,

Case No. 2:07-cv-117

v

Hon. Wendell A. Miles

NORMAN FLUERY, Officer,
JOHN CROMEL, Officer,
RANDAL OLLIS, Officer,
NANCY BLACKFORD, Nurse, and
WAYNE TRIERWEILER, Grievance Coord.,

Defendants.

ORDER ON PLAINTIFF'S SECOND MOTION FOR RECONSIDERATION

Plaintiff's "Motion for Reconsideration/and to Amend Findings" (docket no. 33) appears to seek partial reconsideration of rulings made by the court in its July 8, 2008 order granting in part and denying in part his motions for reconsideration and various other motions related to the court's October 16, 2007 order adopting the Magistrate Judge's recommendation to dismiss plaintiff's complaint for failure to state a claim. The court's July 8, 2008 order vacated the court's previous order to the extent that the latter adopted the Magistrate Judge's recommendation to dismiss plaintiff's retaliation claims against defendants Fluery, Cromel, Blackford, and Ollis based on incidents alleged to have occurred on June 6, 2004 and October 7, 2004. These particular claims were therefore reinstated, although petitioner now objects to certain other conclusions reached by the court.

Plaintiff's current motion seeks relief from the court's July 8, 2008 order under Fed.R.Civ.P. 52(b). However, Rule 52(b) applies to findings of fact and conclusions of law issued by the court after a bench trial. Rule 52 has nothing to do with orders pertaining to dismissal entered without a trial. Therefore, Rule 52 does not apply here.

In this district, motions for reconsideration are governed by W.D. Mich. L.Civ.R. 7.4(a), which provides that a movant seeking reconsideration "shall not only demonstrate a palpable defect by which the Court and the parties have been misled, but also show that a different disposition of the case must result from a correction thereof." The bulk of plaintiff's current filing is devoted to objecting to certain conclusions reached by the court on matters of procedure, pertaining to plaintiff's attempt to file objections to the Magistrate Judge's Report and Recommendation ("R & R"). However, the court concluded that even if plaintiff had filed timely objections to the R & R, those objections would not have caused the court to rule any differently on the majority of plaintiff's claims. Plaintiff's current arguments addressing the substance of the rejected claims do not show that the court erred in its substantive disposition of those claims. Therefore,

The motion for reconsideration is **DENIED**.

So ordered this 28th day of July, 2008.

/s/ Wendell A. Miles
Wendell A. Miles, Senior Judge